

# State of South Dakota

## EIGHTY-EIGHTH SESSION LEGISLATIVE ASSEMBLY, 2013

750U0177

### SENATE BILL NO. 206

Introduced by: Senators Tieszen, Begalka, Frerichs, Johnston, Kirkeby, Krebs, Lederman, Lucas, Olson (Russell), Rampelberg, Rhoden, Tidemann, and Vehle and Representatives Lust, Bartling, Conzet, Craig, Dryden, Gibson, Gosch, Hajek, Hunhoff (Bernie), Johns, Mickelson, Munsterman, Nelson, Olson (Betty), Rozum, Sly, Steele, and Wink

1 FOR AN ACT ENTITLED, An Act to revise certain provisions relating to liability and to  
2 worker's compensation and disability payments for law enforcement officers performing  
3 duties in other jurisdictions.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 34-48-2 be amended to read as follows:

6 34-48-2. In addition to the provisions of chapter 1-24 and chapter 34-48A, any public agency  
7 or covered entity may request assistance from any other public agency or covered entity in order  
8 to preserve and protect the public health, safety, and welfare. The requesting public agency and  
9 the deploying public agency shall utilize the Incident Command System of the National Incident  
10 Management System. Failure to correctly implement the National Incident Management System  
11 does not nullify any of the protections or provisions contained elsewhere in this chapter.

12 Section 2. That § 34-48-6 be amended to read as follows:

13 34-48-6. All personnel deployed by the deploying public agency or covered entity retain all



1 authority of the deploying public agency or covered entity and are entitled to act with all  
2 authority available to similarly situated personnel of the public agency or covered entity  
3 receiving assistance. Any law enforcement officer acting under the provisions of this chapter  
4 has the same authority to act as any other law enforcement officer of the requesting agency  
5 while responding to the request.

6 Section 3. That § 34-48-7 be amended to read as follows:

7 34-48-7. Any deploying public agency or covered entity involved in the incident may request  
8 reimbursement for its actual expenses. If reimbursement is requested, the deploying public  
9 agencies or covered entities involved shall agree upon the actual, reasonable expenses involved.  
10 A deploying public agency that provides law enforcement assistance shall be reimbursed as  
11 provided in section 6 of this Act.

12 Section 4. That § 34-48-8 be amended to read as follows:

13 34-48-8. ~~Any~~ Except as provided in section 6 of this Act, any deploying public agency or  
14 covered entity providing assistance in response to a request under this chapter shall maintain  
15 ownership of and liability for all assistance provided, including:

- 16 (1) Worker's compensation coverage for personnel employed, authorized, or designated  
17 to act by or on behalf of the deploying public agency or covered entity;
- 18 (2) Insurance coverage for employees, agents, or volunteers of the deploying public  
19 agency or covered entity;
- 20 (3) Property; and
- 21 (4) Personnel benefits.

22 Section 5. That chapter 34-48 be amended by adding thereto a NEW SECTION to read  
23 as follows:

24 Any law enforcement officer responding to a request under the provisions of this chapter

1 shall be treated as a law enforcement officer of the requesting agency for liability purposes while  
2 in its jurisdiction, and the requesting agency shall obtain and maintain liability coverage for  
3 those law enforcement officers responding to requests. While a law enforcement officer is  
4 assigned to temporary duty within the jurisdiction of another public agency, any liability that  
5 accrues on account of the negligent or otherwise tortious act of the law enforcement officer  
6 while performing the duty is the responsibility of the requesting public agency and not the  
7 deploying public agency.

8 This section does not apply to any state law enforcement officer or other state employee of  
9 a state agency of the State of South Dakota.

10 Section 6. That chapter 34-48 be amended by adding thereto a NEW SECTION to read as  
11 follows:

12 Any law enforcement officer who is ordered by the deploying agency or who responds to  
13 the request of the authorities of another public agency to perform law enforcement duties  
14 outside territorial limits of the public agency where the officer is employed, is entitled to the  
15 same wage, salary, pension, worker's compensation, and all other service rights for this service  
16 as for service rendered within the limits of the public agency where the law enforcement officer  
17 is regularly employed. All wage and disability payments, pension and worker's compensation  
18 claims, damage to equipment and clothing, and medical expense arising from such service to  
19 the requesting agency shall be paid by the public agency or town regularly employing the law  
20 enforcement officer.

21 A deploying public agency that provides law enforcement assistance and requests  
22 reimbursement shall be reimbursed by the requesting agency for actual expenses incurred by the  
23 deploying agency, which shall include wages and salary, employee benefits such as disability  
24 and pension, fuel and oil, incidental repairs, room and board, equipment, clothing and supplies,

1     and the cost of workers' compensation insurance premiums at the time of employment.

2             This section does not apply to any state law enforcement officer or other state employee of

3     a state agency of the State of South Dakota.